

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NIKKI STEINER MAZZOCCHIO, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:22-cv-292-MTS
)	
COTTER CORPORATION, <i>et al.</i> ,)	
)	
Defendants.)	

JOINT PROPOSED SCHEDULING PLAN

In accordance with Order Setting Rule 16 Conference, the parties submit this Joint Proposed Scheduling Plan.

The parties joint proposed scheduling plan includes:

- a. Whether the Track Assignment is Appropriate. This case has been assigned to Track 2: Standard;

- b. Dates for joinder of additional parties or amendment of pleadings;

December 15, 2023.

- c. A discovery plan including:
 - i. any agreed-upon provisions for disclosure or discovery of electronically stored information,

The Parties do not anticipate needing a separate ESI protocol.

- ii. any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation materials after production,

The Parties agree to cooperate with each other in the event of an inadvertent disclosure of privileged information and agree to negotiate and agree to an appropriate claw-back agreement and destruction of any materials inadvertently produced. If the Parties are unable to resolve any disagreements on this subject, they will submit any such disagreements to the Court.

- iii. a date of dates by which parties will disclose information and exchange documents pursuant to Federal Rule of Civil Procedure 26(a)(1),

October 23, 2023.

- iv. whether discovery should be conducted in phases or limited to certain issues,

The Parties do not believe discovery needs to be conducted in phases or limited to certain issues.

- v. dates by which each party shall disclose its expert witnesses' identities and reports, and dates by which each party shall make its expert witnesses available for deposition, giving consideration as to whether serial or simultaneous disclosure is appropriate in the case,

Plaintiffs will identify their expert witnesses and produce accompanying expert reports, by March 1, 2024, and make their experts available for deposition by May 1, 2024.

Defendants will identify their expert witnesses and produce accompanying expert reports by June 1, 2024, and make their experts available for deposition by August 1, 2024.

Plaintiffs will identify any rebuttal experts by September 1, 2024, and make such experts available for deposition by October 1, 2024.

- vi. whether the presumptive limit of ten (10) depositions per side as set forth in Federal Rule of Civil Procedure 30(a)(2)(A), and twenty-five (25) interrogatories per party as set forth in Federal Rule of Civil Procedure 33(a), should apply in this case, and, if not, the reasons for the variance from the Rules,

Given the number of parties and anticipated number of experts for each party, the Parties believe the presumptive limit of 10 depositions is not adequate and believe that 15 depositions per side is necessary.

The Parties believe the presumptive limit of 25 interrogatories is sufficient at this time.

- vii. whether any physical or mental examination of parties will be requested pursuant to federal rule of civil procedure 35 and if so, by what date that request will be made and the date the examination will be completed,

The Parties anticipate a physical examination of each Plaintiff is necessary and intend to complete the examination by January 15, 2024.

- viii. a date by which all discovery will be completed. See applicable track range Section 3

All discovery will be complete by November 1, 2024.

- ix. any other matters pertinent to the completion of discovery in this case,

Depending on the health of Plaintiffs, the Parties anticipate that *de bene esse* depositions of the Plaintiffs might be necessary.

- x. the parties' position concerning the referral of the action to mediation or early neutral evaluation, and when such a referral would be most productive.

The Parties believe an ADR referral would be productive on or before January 15, 2024.

- d. Dates for filing any motions to dismiss, motion for summary judgment, or if applicable, any motion to exclude testimony pursuant to *Daubert v Merrell Dow Pharmaceutical, Inc.*, 509 U.S. 579 (1993) or *Kuhmo Tire Co. v Carmicheal*, 526 U.S. 137 (1999). See applicable track range, Section 3.

All dispositive motions and motions to exclude testimony shall be filed by December 1, 2024.

- e. The earliest date by which this case could reasonably be expected to be ready for trial;

The Parties believe the case should be ready for trial by March of 2025.

- f. An estimate of the length of time expected to try the case to verdict; and

The Parties believe the trial of this case will take three (3) full weeks.

- g. Any other matters counsel deems appropriate for inclusion in the joint proposed scheduling plan.

None.

Dated: September 20, 2023

Respectfully submitted,

RILEY SAFER HOLMES & CANCELA LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 20, 2023, a true and accurate copy of the foregoing was served by filing it in the court's electronic filing system, which will provide electronic notice and a copy of the filing to all parties and attorneys of record.

/s/ Ryan A. Keane